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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/689,647	10/13/2000	Walter Hans Meissner	2925-0438P	7894

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EXAMINER

EDELMAN, BRADLEY E

ART UNIT PAPER NUMBER

2153

DATE MAILED: 03/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/689,647	Applicant(s) MEISSNER ET AL.	
	Examiner Bradley Edelman	Art Unit 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-8 and 10-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-8 and 10-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office action is in response to Applicant's amendments and request for reconsideration filed on December 7, 2004. Claims 5-8 and 10-18 are presented for further examination. Claims 16-18 are new claims.

Claim Objections

Claim 16 is objected to because of the following informalities: line 4 of the claim appears to be missing the word "a" in the phrase "in layer message." Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 16, 5-8, 10-14, and 17-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In considering claim 16, the use of the terms "previous communication network layer" and "subsequent communication network layer" lack proper antecedent basis and are thus confusing. It is not clear what "previous" and "subsequent" refer to, because the claim does not set forth an initial layer to serve as a reference point. Thus, it is unclear whether there must be at least three layers, wherein "previous" and

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“subsequent” relate to a third layer in between the two, or whether there can be only two layers, wherein “previous” and “subsequent” refer only to each other.

Claim 16 also mentions “each context” on line 5, but only one single context was previously mentioned. Therefore, the phrase “each context” lacks sufficient antecedent basis.

Claims 5-8, 10-14, 17, and 18 depend from claim 16 and are thus rejected for the same reasons.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 13-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Glick (U.S. Patent No. 6,507,563, hereinafter “Glick”).

Regarding claim 16, Examiner has treated the term “each context” as if it had contained sufficient antecedent basis. Furthermore, Examiner has interpreted the term “in layer message” as if it read “in a layer message.” Finally, Examiner has interpreted the phrase “for a previous communication network layer” as if it had read “for a

communication network layer" in order to clarify the ambiguity regarding the "subsequent communication network layer."

In considering claim 16, as thus understood, Glick discloses a method of processing a message in a communication network having a layered architecture (col. 1, lines 10-12, "routing data packets from a data queue through a protocol stack"), the method comprising:

Providing a plurality of contexts ("structures," see col. 7, lines 15-20);

Linking a plurality of layer messages by including an address ("pointer") of a context for a communication network layer in a layer message of a subsequent communication layer (col. 8, lines 14-22, "cascade congestion pointer 208 is configurable to link the data structure to a next associated data structure... each data structure within a particular protocol stack is linked to another data structure within the same protocol stack thereby forming a chain of linked data structures"; col. 8, lines 58-61, "each data packet may also include a pointer to the data structure of the last congested protocol within its associated protocol stack,"), each context associated with a communication network layer and providing variables and methods for the associated communication network layer (col. 7, lines 65-67, "each data structure is configured to indicate whether the protocol layer is able to transmit a data packet to a next protocol layer," wherein the indication would necessarily include at least one method and one variable); and

Encoding each layer message after the step of linking is complete (col. 9, lines 7-36, " before each packet exits from its data queue, one or more of the associated data

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structures for the particular data packet may be analyzed," wherein upon sending the layer message from the queue to the physical medium, it is encoded).

In considering claim 13, Glick further discloses that the linking step entails linking layer messages comprising unformatted layer values (i.e. the linking occurs before the messages is formatted for physical transmission).

In considering claim 14, Glick further discloses that the encoding step encodes each layer message of the linked plurality of layer messages into a single buffer (col. 9, lines 7-36, "data queue").

In considering claim 15, Glick discloses a method for processing a layered message for transmission over a communication network having a layered architecture to form a formatted layered message having encoded data, comprising:

Combining unformatted elements by linking a plurality of layer messages based on addresses of contexts for the communication network layers (col. 8, lines 14-22, "cascade congestion pointer 208 is configurable to link the data structure to a next associated data structure... each data structure within a particular protocol stack is linked to another data structure within the same protocol stack thereby forming a chain of linked data structures"), each context associated with one of the plurality of communication network layers and providing variables and methods for the associated communications network layer (col. 7, lines 65-67, "each data structure is configured to

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indicate whether the protocol layer is able to transmit a data packet to a next protocol layer"); and

Processing the unformatted elements to form the formatted layered message after the combining step (col. 9, lines 7-36, " before each packet exits from its data queue, one or more of the associated data structures for the particular data packet may be analyzed," wherein upon sending the layer message from the queue to the physical medium, it is formatted).

Response to Arguments

3. Examiner agrees with Applicant's arguments regarding the 112, 1st and 102(e) rejections in view of Moberg. However, the claims remain rejected under 35 USC 112, 2nd paragraph, for the reasons stated above, and certain claims are also rejected under 35 USC 102(e) as being anticipated by Glick, as described above.

Allowable Subject Matter

4. Claims 5-8, 10-12, 17, and 18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 5 would be allowable because the prior art of record does not disclose the linking and encoding method such as disclosed and interpreted in claim 16, wherein the

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variables comprise initial and current buffer positions used during encoding and decoding of the layer message for the associated communication network layer.

Claim 6 would be allowable because the prior art of record does not disclose the linking and encoding method such as disclosed and interpreted in claim 16, wherein the methods comprise at least methods for encoding and decoding.

Claim 7 depends from claim 6 and so would be allowable as well.

Claim 8 would be allowable because the prior art of record does not disclose the linking and encoding method such as disclosed and interpreted in claim 16, including the claimed incrementing, setting, and repeating steps.

Claims 10, 11, 12, and 18 all depend from claim 8, and so would be allowable as well.

Claim 17 would be allowable because the prior art of record does not disclose the linking and encoding method such as disclosed and interpreted in claim 16, including the claimed passing and setting steps.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley Edelman whose telephone number is 571-272-3953. The examiner can normally be reached from 9 a.m. to 5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached at 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Bradley Edelman

BE

March 9, 2005